



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT



**RHODE ISLAND MARINE FISHERIES
REGULATIONS**

**Part 6
General Equipment Provisions**

Summary of Proposed Changes

Proposed ADOPTION of Regulation

In conjunction with proposed repeal of “RIMFR Part 10 – Equipment Restrictions”, “Part 11 – Commercial Fisheries”, “Part XIII – Gillnet Regulations”, and “Part XIV – Fish Traps”

**Public hearing
March 14, 2016**

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

NOTE: This regulation is proposed for ADOPTION as a new regulation. However, the majority of the language contained herein is not in actuality proposed new language, but has only been re-located to this proposed new regulation as part of a regulation re-structuring effort designed to improve the readability and clarity of Marine Fisheries regulations.

In many instances the language is proposed to be revised as it is re-located. This *Summary of Proposed Changes* provides annotated changes to assist the reader with understanding the proposed changes

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PURPOSE

The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

AUTHORITY

These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

DEFINITIONS

See Rhode Island Marine Regulations, Part I - Definitions, section 1.1.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement ~~of Part X these regulations~~ shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

REGULATIONS

6.1 Unauthorized raising of traps, pots, and devices: No person except the Director shall unduly disturb, lift, raise, molest, or remove any animal from a trap, pot, or other such device of a person licensed under this Title, without the written permission of that person. (RIGL 20-4-8)

Commented [DP(1)]: Re-located from Part XI section 11.9

6.2 Marking of traps: The owner of every trap, pot, or other stationary contrivance used for the taking of marine fish, shellfish, crustaceans, or other invertebrates being fished in the waters of this state, and the owner of any trap or pot for catching or cars, or other contrivance for keeping lobsters, shall mark each such trap, pot, or contrivance, together with the buoy which is attached thereto, with the name or names of the owners thereof or the person or persons using the same, and the license number or numbers of such person or persons (RIGL 20-4-7)

Commented [DP(2)]: Re-located from Part XI section 11.8

Commented [DP(3)]: Re-located from Part XI section 11.8

6.3 Use of explosives: The use of explosives as a fishing device in the internal and territorial waters of the State of Rhode Island is prohibited.

Commented [DP(4)]: Re-located from Part XI section 11.6

6.4 Obstruction of migratory fish passage: No person shall obstruct the free passage of anadromous or catadromous fish in any coastal river, stream, or estuary of the State of Rhode Island.

Commented [DP(5)]: Re-worded and re-located from Part XI section 11.7.

6.5 Commercial netting (including trawl nets, gillnets, fyke nets, and seines):

6.5.1 Prohibited areas (waters) for all commercial netting:

(A) All netting, except licensed fish traps are prohibited in the Harbor of Refuge and within one hundred (100) yards of the Harbor of Refuge breakwater:

Commented [DP(6)]: From Part XI sections 11.2.1, 11.3.3

(B) In all coastal pond channels:

Commented [DP(7)]: From Part XI sections 11.3.1, 11.4.2, and 11.4.4

(C) In Point Judith Pond in the following locations:

(1) In the southern portion of Point Judith Pond from the Harbor of Refuge Breakwater and bounded on the north by a line from Strawberry Hill Point to High Point, and on the east by the Great Island Bridge;

(2) In the northern portion of Point Judith Pond, in the Narrows bounded on the west by a line from Betty Hull Point to Short Point, and on the east by a line from Blue Rock Point to Old Cellar Point;

(3) In all waters north of a line from Ram Point to Squally Point.

Commented [DP(8)]: From Part XI section 11.4.2

(D) In the northern portion of Potter Pond, within one hundred (100) feet of the Captain's Brook.

Commented [DP(9)]: From Part XI section 11.4.3

(E) In the Narrow River in the following locations:

(1) Within three hundred (300) yards of the seaward entrance to the river;

(2) Between Middle Bridge and a point located eight hundred (800) feet north of Bridgetown Road Bridge;

(3) Within one hundred (100) feet north and south sides of the upper Narrows;

(4) Within one hundred (100) feet east and west of the seaward mouth of Gilbert Stuart Brook.

Commented [DP(10)]: From Part XI section 11.3.3, 11.4.4

(F) In the Pawcatuck River and Little Narragansett Bay north of a line from Pawcatuck Rock to Thompson Point.

Commented [DP(11)]: From Part XI sections 11.4

(1) Exceptions: Seining is allowed in this areas between February 1 and April 15 annually.

Commented [DP(12)]: From Part XI section 11.4.1

(G) Fixed gear prohibition: All fixed gear is prohibited in the Foster Cove Channel and in the narrows in Charlestown Pond.

Commented [DP(13): From Part XI section 11.4.5(A)

6.5.2 Trawling Devices:

(A) Net obstruction or constriction: Any fishing vessel subject to minimum mesh size restrictions using a trawl net shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than three (3) inches in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. "The top of the trawl net" means the fifty (50) percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

Commented [DP(14): Re-located from FF regs as specific to trawl nets

(B) Trawling ground gear: The use of rollers, rockhoppers or discs greater than twelve (12) inches in diameter is prohibited while fishing in Rhode Island waters.

Commented [DP(15): Re-located from section 7.3 of these regs.

(C) Prohibited areas: In addition to those waters where all netting is prohibited, a trawling device is prohibited in the following areas:

(1) In the Upper Narragansett Bay Trawling Area on any Saturday, Sunday, or legal State holiday between July 1st and November 1st annually.

(a) Upper Narragansett Bay Trawling Area: The Upper Narragansett Bay Trawling Area is designated a Marine Life Management Area pursuant to RIGL 20-3-4, and is described as the waters encompassed by the following lines: the southern boundary of the Upper Narragansett Bay otter trawling area is defined as a line from Spink Neck in the Town of North Kingstown to Pine Hill Point on Prudence Island, thence from Homestead Dock on the easterly shore of Prudence Island, thence northeasterly to Hog Island Shoal Light, and thence to the north abutment of the Mt. Hope Bridge in the Town of Bristol; the western boundary of the area is a line from Sandy Point in the City of Warwick to the southern tip of Warwick Point in the City of Warwick; the northern boundary of the area is a line from the dock at Rocky Point in Warwick to the southern tip of Poppasquash Point in Bristol, thence to Hog Island Light, and thence to the northern abutment of the Mt. Hope Bridge in Bristol.

Commented [DP(16): Re-located from Part XI sections 11.10 and 11.10.1

(2) In the Upper Sakonnet Marine Life Management Area:

(a) The Upper Sakonnet River Marine Life Management Area is designated a Marine Life Management Area pursuant to RIGL 20-3 4, and is described as the waters of the Upper Sakonnet River which lies north of a line from McCurry Pt. in Portsmouth to the southern end of Jack's Island

Commented [DP(17): Re-located from Part XI section 11.2.1 and 11.10. Corrected to apply prohibition only Upper Narragansett Bay Trawling Area, and not the entirety of Narr. Bay as language as written in section 11.2.1 may suggest.

(so-called) in Tiverton, and which lies south of the Sakonnet River Bridge (Rt. 24).

Commented [DP(18)]: Re-located from Part XI section 11.2.1 and 11.4.7. Corrected to apply prohibition only Upper Sak. River Marine Life Mgmt. Area and not the entirety of the Sak. River, as language as written in section 11.2.1 may suggest.

(3) In the following coastal salt ponds: Point Judith Pond; Potter Pond; Quicksand Pond; Tunipers Pond; Briggs Marsh; Round Pond; Narrow River; Card Pond; Green Hill Pond; Trustom Pond; Winnapaug Pond; and Great Salt Pond (New Shoreham).

Commented [DP(19)]: Re-located from Part XI section 11.2.1 and 11.3.3

(D) Otter Trawling – areas prohibited:

(1) Charlestown Pond: Otter trawling is prohibited on Saturdays, Sundays, and legal State holidays, annually, in that portion of the pond described as south of a line between Marsh Point and Horseshoe Point on the Arnolds shore, west of a line between DEM markers on Marsh Point and Marsh Neck Point. The prohibited area is bounded on the west by a line between the east shore of the Foster Cove channel and a DEM marker on the barrier beach;

Commented [DP(20)]: Re-located from Part XI section 11.4.5

(2) Quonochontaug Pond: Otter trawling is prohibited on Saturdays, Sundays, and legal State holidays, annually, in that portion of the pond described as south of a line running easterly from a DEM marker at the end of Quahaug Point to the northern end of Nopes (Barn) Island. The area is bounded on the west by a line running south from Quahaug Point to a DEM marker on the barrier beach;

Commented [DP(21)]: Re-located from Part XI section 11.4.6

(3) In Potter Pond.

Commented [DP(22)]: Re-located from Part XI section 11.4.3

(E) Otter trawl net Winter mesh size in Narragansett Bay, Mt. Hope Bay, Sakonnet River, Charlestown and Quonochontaug Ponds:

(1) This area is defined as all Rhode Island State waters which are north of the following lines: north of a line running from easternmost extension of Carrier Pier to Conanicut Pt. to the tips of the T Pier on Prudence Island to Carr's Point; and north of a line from Sachuest Pt. to Sakonnet Point; and all waters north of Quonochontaug and Charlestown Breachways.

(2) No person shall utilize an otter trawl between November 1 through February 28 annually that has a mesh size which measures less than six (6) inches stretched mesh (measured inside knot to inside knot).

Commented [DP(23)]: Re-located from Part XI section 11.11

(F) Commercial possession limit of lobsters taken by gillnet or otter trawl: Maximum of one hundred (100) lobsters per day (based on a 24-hour period), or five hundred (500) lobsters per trip for trips five (5) days or longer.

Commented [DP(24)]: Copied from Lobster regs

6.5.3 Gillnetting:

(A) Gillnetting for bait: No person shall set, haul, and/or maintain a gill net for

bait so as to obstruct the free passage of fish in Rhode Island coastal waters, streams, rivers, or bays. Bait gillnets must be clearly labeled with the name of the person setting or tending the net and be constantly tended.

Commented [DP(25)]: Re-located from GN regs section 13.5

(B) License required: No person shall set, haul, and/or maintain a commercial gillnet in the public waters of the State without first obtaining a commercial gillnet endorsement. Refer to DEM'S "Commercial and Recreational Saltwater Fishing Licensing Regulations". (RIGL 20-4-13)

Commented [DP(26)]: Repealed

Commented [DP(27)]: Removing all references to penalties and adding general penalty provision consistent with other re-writes

Commented [DP(28)]: Re-located from GN regs section 13.2

(C) Marking of nets: Both the near shore and offshore ends of an authorized gillnet shall be marked with an orange or fluorescent orange bullet shaped buoy with a size of nine (9) by sixteen (16) inches, and be clearly marked with the letters "GN" with a minimum letter height of three (3) inches and include the name and license number of the licensee.

Commented [DP(29)]: Re-located from GN regs section 13.3.1

(D) Tending of nets: Each gillnet shall be hauled once each calendar day.

Commented [DP(30)]: Re-located from GN regs section 13.3.2

(E) Distance from fish trap: No person shall set, haul, or maintain a gillnet within three thousand (3,000) feet of a licensed fish trap.

Commented [DP(31)]: Re-located from GN regs section 13.3.3

(F) Floating and bottom tending gillnets: Only a floating and bottom tending gillnet may be set, hauled, or maintained in Rhode Island waters.

(1) A floating gillnet must be constantly tended.

(2) Minimum mesh size for a bottom tending gillnet: No bottom tending gillnet shall have a mesh size smaller than five (5) inches stretched mesh.

Commented [DP(32)]: Re-located from GN regs section 13.3.4 and 13.3.5

(G) Prohibited areas: In addition to those areas where all netting is prohibited, and with the exception of gillnetting for bait, commercial gillnetting is prohibited in the following areas:

Commented [DP(33)]: Re-located from GN regs section 13.6

(1) In the following coastal salt ponds: Quicksand Pond; Tunipus Pond; Briggs Marsh; Round Pond; Narrow River; Point Judith Pond; Potter Pond; Card Pond; Green Hill Pond; Trustum Pond; Charlestown Pond; Quonochontaug Pond; and Winnapaug Pond.

Commented [DP(34)]: Re-located from GN companion section 13.6

(2) In Little Narragansett Bay;

(3) Within one and one half (1-1/2) miles south (true) and west (true) of Napatree Point;

(4) In the Pawcatuck River;

(5) Within one half (1/2) mile in both directions of the seaward entrance to a coastal salt pond channel, and for a distance of three hundred (300) yards seaward, when such coastal salt pond is open to the sea.

(6) Within one half (½) mile of Block Island between April 15 and November 15 annually.

(7) Within the waters seaward of Old Harbor, Block Island, from the Block Island shoreline to the one hundred (100) foot depth contour, between November 1 and December 31, annually. This area is bounded by a northerly line running one hundred (100) degrees (true) from Clay Head Point to the black and white whistle out to a depth of one hundred (100) feet. The southern boundary of the closure zone runs from the shoreline on a course of one hundred (100) degrees (true) to the C-3 buoy out to the one hundred (100) foot depth contour. The eastern boundary is a line which corresponds to the one hundred (100) foot depth contour.

Commented [DP(35)]: Re-located from GN regs section 13.6

(8) Season Closure: Within fifty (50) yards of the entire Rhode Island coastline (mean high water line) during the period October 15 - December 31, annually.

Commented [DP(36)]: Re-located from GN regs section 13.8.2

(9) Within fifty (50) yards of the Rhode Island coastline (mean high tide line) in the following areas:

(a) From Monahan's Dock breakwater (State Pier #5) to the southernmost tip of Matunuck Pt. (Carpenter's Bar);

(b) In Narragansett Bay north of the Colregs line, including Mt. Hope Bay;

(c) In the Sakonnet River;

(d) From the southern tip of Sachuest Point to the juncture of Second Beach and Sachuest Point; and

(e) From the southwest corner of Price's Neck to Castle Hill Light House.

Commented [DP(37)]: Re-located from GN regs section 13.8

(H) Gillnet Prohibition for Striped Bass: No person shall take or possess any striped bass while gillnetting, or while hauling a gillnet, including while gillnetting for bait.

Commented [DP(38)]: Re-located from STB regs section 12.6

(I) Additional area specific regulations:

(1) Narragansett Bay, Mount Hope Bay, and the Sakonnet River: This area shall include all waters of Narragansett Bay, Mount Hope Bay, and Sakonnet River, north of the Colregs line. No person shall set, haul, and/or maintain a gillnet within this area which does not adhere to the following specifications:

(a) Maximum length: A single gillnet, or series of connected gillnets, shall not exceed a maximum total length of three hundred (300) feet.

(b) Setting pattern: Each gillnet must be set in a straight line.

(c) Spacing: No gillnet may be set within fifty (50) yards of shore at mean low water, or within two thousand (2000) feet of another gillnet.

Commented [DP(39): Re-located from GN regs section 13.4

(2) Waters within one half (1/2) nautical miles of the Rhode Island coast (mean high tide line) and south of the Colregs line:

(a) Maximum length: A single gillnet, or series of connected gillnets shall not exceed a maximum total length of six hundred (600) feet.

(b) Setting pattern: Each gillnet must be set in a straight line and perpendicular to the shore.

(c) Spacing: No gillnet may be set within two thousand (2000) feet of another gillnet.

Commented [DP(40): Re-located from GN regs section 13.4.2

(3) Waters between one half (1/2) nautical miles and three (3) nautical miles from the Rhode Island coast (mean high tide line):

(a) Setting Pattern: Each gillnet must be set in a straight line (from one end buoy to the other).

(b) No gill net may be set within two thousand (2000) feet of another gillnet during the period from April 1 to October 1.

(c) Marking:

(i) Gill nets greater than six hundred (600) feet and less than or equal to twelve hundred (1,200) feet: Must be marked with two (2) orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches on the westernmost end as measured on a compass circle from magnetic south through west to, and including, north and one orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches on the easternmost end side as measured on a compass circle from magnetic north through east to, and including, south. In the case of nets set in a due north south line, the two orange or fluorescent orange floats with a size of nine (9) x sixteen (16) inches should be placed on the southernmost end.

(ii) Gillnets greater than 1,200 feet: Must be marked with an orange or fluorescent orange float with a size of 9 x 16 inches and a radar

reflective highflyer at each end. One of the radar reflective highflyer is to be marked with a flag on the westernmost side as measured on a compass circle from magnetic south through west to, and including, north. The easternmost side as measured on a compass circle from magnetic north through east to, and including, south is to be marked with a radar reflective highflyer that must remain flagless. In the case of nets set in a due north south line, the flag on the radar reflective highflyer should be placed on the southernmost end.

Commented [DP(41)]: Re-located from GN regs section 13.4.3

(J) Commercial possession limit of lobsters taken by gillnet or otter trawl: Maximum of 100 lobsters per day (based on a 24-hour period), or 500 lobsters per trip for trips 5 days or longer.

Commented [DP(42)]: Copied from Lobster regs

6.5.4 Fyke Nets:

- (A) The fyke net must be registered with the DFW.
- (B) No person shall use a fyke net unless the net meets the following dimensions:
 - (1) Maximum length of fyke net leader: 00 feet.
 - (2) Maximum mesh size: Stretched mesh shall not be greater than two and one half (2½) inches.
 - (3) Leader: Must not extend more than 4 feet off the bottom.
- (C) Fyke nets must be tended and hauled every 48 hours.
- (D) Fyke nets shall not be placed within 250 feet of any other fishing net.
- (E) Prohibited areas:
 - (1) In addition to those waters where all netting is prohibited, fyke nets are prohibited in Charlestown and Quonochontaug Ponds between June 15 and September 15 annually.

6.5.5 Seine nets:

- (A) Prohibited areas: In addition to those waters where all netting is prohibited, seine nets are prohibited along the shoreline within one half (½) mile in both directions of the following coastal salt pond channels, and extending three hundred (300) yards seaward, when the coastal salt pond is open to the sea: Quicksand Pond channel; Tunipers Pond channel; Cards Pond channel; Trustom Pond channel; Quonochontaug Pond channel; Charlestown Pond channel; and Winnapaug Pond channel.

6.6 Fish traps:

6.6.1 Permit required: No person shall set a fish trap in the public waters of the state without first obtaining a permit as provided in these regulations. (RIGL 20-5-1)

6.6.2 Eligibility: A permit may be issued to any resident of this state or to any corporations incorporated in the state licensed in accordance with RIGL Chapter 2.1 upon payment of an permit fee of twenty dollars (\$20.00) per trap location. (RIGL 20-5-2)

6.6.3 Application: Application for a fish trap permit shall be made on forms as prescribed by the Director.

6.6.4 Expiration and renewal of permits:

(A) Permits shall be provided for a three (3) year period, or for that portion thereof expiring on the last day of December of each third year thereafter.

(B) On termination of any permit, the Director may renew the permit by issuing a new permit in place of the permit.

(1) Eligibility: Application for permit renewal shall be made within ten (10) days before its termination. Failure to apply for a permit renewal shall allow for a permit application in location as specified in the permit by any other person. (RIGL 20-5-9)

6.6.5 Exclusive right of permittee; assignment of permit:

(A) The holder of any permit, or the holder's heirs, executors, administrators, successors, or assigns shall have the exclusive right to fish the location by means of a fish trap, provided that the site is and has been actively fished.

(B) Any holder of a permit may, upon approval of the Director, transfer the permit to any suitable person. This approval must be endorsed on the permit in order to become effective. (RIGL 20-5-10)

6.6.6 Report as to traps placed; failure to occupy location; removal of permit from state: On or before the tenth day of January in each year every person holding a permit pursuant to this chapter shall notify the department of environmental management in writing, under oath, what traps were placed under the permit during the preceding calendar year. Failure to furnish this information makes the permit null and void after that date. Failure to place a complete fish trap on a permitted location for a part of one calendar year may, in the discretion of the director of environmental management, make the permit for the fish trap null and void; and the location will then become available for any suitable applicant. A permit for a fish trap location

becomes null and void upon the removal of the holder from the state. (RIGL 20-5-13)

6.6.7 Removal of trap on cessation of use; closed season; damaged or dilapidated traps: Upon ceasing to use any fish trap as authorized, that structure shall at once be removed by the owner at the owner's expense and to the satisfaction of the director of environmental management. Failure to remove it shall be considered sufficient grounds for prosecution of the owner for maintaining a public nuisance or for revocation of the fish trap permit. Unless otherwise specified by regulations adopted by the marine fisheries council, all fish traps authorized in this chapter shall be completely removed by or before the last day of December of each year; and no fish trap shall be reset before the first day of the following March. All submerged or broken stakes must be promptly removed. Any fish trap damaged or allowed to get into a dilapidated condition will be regarded as abandoned unless promptly removed or rebuilt. Failure to do this will subject the owner to prosecution and forfeiture of the trap. (RIGL 20-5-14)

6.6.8 Reporting requirements: On or before the tenth day of January of each year, each licensee/fish trap operator shall submit a written report to the DEM, indicating those locations where the licensee shall be setting fish traps during the upcoming fishing season. These locations shall be identified by GPS, LORAN and/or latitude and longitude coordinates and shall also include the dates upon which the licensee anticipates setting and removing the traps. This notification shall not prohibit a fish trap operator from subsequently, during the calendar year, setting additional traps on licensed locations that were not anticipated and for which notice was not therefore provided to the DEM. However, any deviations from the report must be reported in writing and received by the Department of Environmental Management, Division of Fish and Wildlife, Marine Fisheries section, 3 Fort Wetherill Road, Jamestown, Rhode Island, 02835 prior to the setting of the trap. Failure to provide this information makes the fish trap operator's license null and void. Based on the reports of fish trap locations, the DEM shall develop a graphic chart displaying fish trap locations annually by June 1 for distribution to the public.

6.6.8 By January 31 annually, the DEM shall review all trap site permits and shall eliminate those sites from the list of authorized sites for which a permit has not been issued. The DEM shall provide written notice by registered mail to all those licensees who had most recently been issued permit(s) to set fish trap(s) in the locations of the sites to be eliminated. Said notice shall advise the affected licensee that the licensee may avoid the elimination of the trap location if written notice of such a desire to avoid elimination is received by the Division of Fish and Wildlife, Marine Fisheries section, 3 Fort Wetherill Road, Jamestown, Rhode Island, 02835, on or before thirty (30) days of the licensee's receipt of the notice of elimination.

6.6.9 Sub-leasing of Permitted Fish Trap Locations: It is prohibited to sub-lease or allow any other person to use a permitted fish trap location. Any violation of this section shall make the permit for the fish trap null and void. (RIGL 20-5-10(b), 20-5-

Commented [DP(43): Currently contained in statute but not currently in regulation; so in actuality nothing new proposed. Proposed to be added to regs as is prescriptive and follows format as in other regs

13).

6.6.9 Hook-backs in Leaders: Each leader shall be set as nearly as may be in a straight line, no bend or angle, known commonly as a “hook-back,” shall be permitted. (RIGL 20-5-7)

6.6.10 Minimum distance between traps: As specified in RIGL Section 20-5-4, The Director may grant a license for the erection of a fish trap within a lesser distance of 3,000 feet of an adjoining trap if the parties interested agree in writing to such a lesser distance. Such decisions shall be made with the advice of the Rhode Island Marine Fisheries Council. (RIGL 20-5-4)

6.6.11 Maximum length of trap leader: No permit shall be granted for a fish trap in which the length of the trap and leader is greater than two hundred eighty (280) fathoms. (RIGL 20-5-4)

6.6.12 Willful injury to traps: No person shall willfully or maliciously cut, remove, displace, tamper with, or in any way damage any trap, leader, or pound set by virtue of the permit provided for in these regulations. (RIGL 20-5-18)

6.6.13 Navigational Aids to Fish Traps and Appurtenances: Licensees must comply with the following requirements; failure to comply shall make license null and void. All floating fish traps deployed within Rhode Island State waters shall be marked with no less than 4 radar reflective buoys (hi-flyers) each positioned no more than 100 feet from the trap or its appurtenances in the following locations: one buoy shall be located at the shoreward end of the leader, one buoy on the seaward end of the leader adjacent to the head of the trap, and two buoys shall be located on the seaward side of the head of the trap.

(A) Floating fish traps located at sites 13F, 26C, 25B, 398, 120-19, 122-19, 383-19, 75A, 68B, 69B, 400-23, and 475-30 shall be marked as specified by the United States Coast Guard in its communication to the Department dated September 13, 2005. Specifically, site 13F shall be marked with a 5th class buoy with a 4 second flashing light. Site 26C shall be marked with a 5th class buoy with a 6 second flashing light. Site 25B shall be marked with a 5th class buoy with a 4 second flashing light at the southern end of the trap and an unlit 5th class buoy at the northern end. Sites 398 and 383-19 shall be marked with an unlit 5th class buoy. Sites 75A, 69B, 475-30 and 68B shall be marked with an unlit 6th class buoy. Sites 122-19 and 400-23 shall be marked with a 5th class buoy with a 2.5 second flashing light. Each of the above-described buoys shall be positioned within 100' of the head of the floating fish trap and its appurtenances.

6.6.15 Restricted Locations: No fish traps shall be erected within the waters of the State with the exception of the following sites:

Commented [DP(44): Re-located from Fish Traps section 14.1

Commented [DP(45): Re-located from Fish Traps section 14.3

Commented [DP(46): Re-located from Fish Traps section 14.4

Commented [DP(47): New language as written in RIGL 2-5-4 prescriptive to regulated. 20-5-4 addressed distance between traps and length of trap leader. However, only distance between traps specified in reg, not length of trap leader...weird

Commented [DP(48): From Fish Traps section 6.6.14. Modified to reflect statute language

Commented [DP(49): Re-located from Fish Trap regs section 14.5

(A) The following sites are located south of Newport and Middletown within the area designated for floating fish traps by the engineer's office of the Department of the Army:

- (1) Sites 13B, 13C, 13D, 13E, and 13F, located in a line extending southeasterly at approximately 135° beginning at Seal Rock (41° 26'39"N, 71° 20'49"W) so-called, and ending at approximately 41° 25'1"N, 71° 18'0"W.
- (2) Sites 26A, 26B, 26C, and 26D located in a line extending southeasterly at approximately 135° from Flat Rock (41° 27'03"N, 71° 18'24"W) so-called, and ending at approximately 41° 26'15"N, 71° 17'0"W.
- (3) Sites 111 and 112 located in a line extending southwesterly at approximately 225° from the west side of Price's Neck (41° 26'58"N, 71° 20'15"W), so-called, for a distance not exceeding 1,500 feet.
- (4) Sites 133, 136 and 324 located in a line extending southeasterly at approximately 150° from the east side of Price's Neck (41° 27'0"N, 71° 20'5"W), so-called, for a distance not exceeding 3,300 feet.
- (5) Sites 113A, 113B, 113C, 113D, 113E, and 113F located in a line extending southeasterly at approximately 135° from Coggeshall's Point (41° 27'4" N, 71°18'42" W) so-called, beginning just south of the inner area designated by the engineer's office of the Department of the Army at approximately 41°26'6"N, 71°16'56"W and ending near the eastern limits of the outer area designated by the engineer's office of the Department of the Army at approximately 41° 24'50"N, 71°14'47"W.
- (6) Sites 25A, 25B and 25C located in a line beginning approximately seven thousand four hundred feet (7,400') south-southeast (200°) of Cormorant Rock (41°27'36"N, 71°14'51"W) so-called, at approximately 41° 26' 29" N, 71° 15' 29" W extending southeasterly (120°) and ending at approximately 41° 25' 56" N, 71° 14' 21" W.
- (7) Sites 54A and 54B located in line extending northwest at approximately 310° for three thousand three hundred sixty feet (3,360') beginning at the southerly limits of the outer area designated by the engineer's office of the Department of the Army at approximately 41°24'48"N, 71°16'56"W, 5,000 feet east-southeast of the southeastern end of the line from Seal Rock described in subdivision (a) and ending at approximately 41°25'10"N, 71°17'30"W.
- (8) Sites 37A and 37B located in line extending northwest at approximately 310° for 3,360' (1,680' each) beginning at the southerly limits of the outer area designated by the engineer's office of the Department of the Army at approximately 41°24'36"N, 71°15'51"W, 5,000 feet east-southeast of the southeastern end of the line from Seal Rock described in subdivision (g) and

ending at approximately 41°24'58"N, 71°16'26"W.

(9) Sites 116 and 117 located in a line extending southeast at approximately 125° for 3,000 feet (1,500' each) from Gull Rock (41°27'33"N, 71°18'1"W) so-called, and ending at approximately 41°27'13" N, 71°17'29" W.

(10) Sites 501A and 501B located in a line extending southeast at approximately 125° for 3,360 feet (1,680' each) beginning at approximately 41°27'8"N, 71°17'35"W and ending at approximately 41°26'44"N, 71°16'54"W.

(11) Site 287 beginning at the high tide line 600 feet south of "forty steps" at approximately 41°28'26"N, 71° 17'49"W and extending east by south at approximately 100° for 1,680 feet.

(12) Site 23, designated for a pound net, is located approximately 4,600' south of Easton's Point so-called, at approximately 41°27'56"N, 71°16'31"W and is of the dimensions 600' by 600'.

(13) Sites 383-19A and 383-19B located in line beginning northeast of Sachuest Point at approximately 41°28'30"N, 71°14'22"W, extending at approximately 135° for 3,360 feet and ending at approximately 41°28'8"N, 71°13'49"W.

(14) Site 512-19 begins approximately 2,250 feet south of flint point (41°29'9"N, 71°14'16"W) so-called, on the east side of Sachuest Point, and extends at approximately 135° for 1,680 feet ending at approximately 41°28'35"N, 71°13'58"W.

(15) Site 364, beginning at approximately 41° 27' 27" N and 71° 21' 35" W south of Castle Hill Lighthouse near Perry's Cove, extends approximately 400' west at approximately 270°, ending at approximately 41° 27' 23" N and 71° 21' 41".

(16) Sites 191 and 192 extend in line off the southeast side of Easton's Point (41°28'45"N, 71°16'30"W) in a southwesterly direction at approximately 145° beginning at approximately 41° 28' 49" N and 71° 21' 41" W and ending at approximately 41° 28'39" N and 71° 16' 14" W.

(B) The following sites are located near Sakonnet Point within the area designated by the Department of the Army:

(1) Site 119-19 located approximately one mile south of Church's Point (41°29'59"N, 71°12'22"W) so-called, beginning at approximately 41°29'12"N, 71°11'45"W and extending 1,680 feet west by southwest at approximately 250°.

(2) Site 581-19 located approximately one mile south of Church's Point

(41°29'59"N, 71°12'22"W), beginning at approximately 41°29'4"N, 71°12'14"W in line with and 900 feet from the outer end of site 119-19 and extending 1,680 feet west by southwest at approximately 250°.

(3) Site 580-19 located approximately 7,000 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°29'2"N, 71°11'52" W and extending 1,680 feet west by south at approximately 250°.

(4) Site 293-19 located approximately 6,000 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'55"N, 71°11'26"W and extending 1,680 feet west by south at approximately 250°.

(5) Site 227-19 located approximately 3,500 feet northeast of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'31"N, 71°11'27"W and extending 1,680 feet west at approximately 270°.

(6) Site 584-19 located approximately 2,700 feet north of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'24"N, 71°11'47"W and extending 1,680 feet west at approximately 270°.

(7) Site 122-19 located approximately 1,400 feet northeast of the breakwater (41°27'58"N, 71°11'43"W) beginning at approximately 41°28'14"N, 71°11'36"W and extending 1,680 feet west at approximately 255°.

(8) Site 120-19 begins approximately 300 feet north of the shore end of the Sakonnet breakwater (41°27'53"N, 71°11'45"W) and extends 1,680 feet west at approximately 270°.

(9) Site 261-19 begins 2,000 feet south of breakwater point (41°27'53"N, 71°11'45"W) at approximately 41°27'34"N, 71°11'41"W and extends 1,680 feet west at approximately 270°.

(10) Sites 398 and 118, located west of Sakonnet Point, extend in a line west by south at approximately 240° for 3,360 feet (1,680 feet each) beginning at the Sakonnet Lighthouse rock (41°27'10"N, 71°12'10"W) and ending at approximately 41°26'55"N, 71°12'49"W.

(11) Site 58 begins at the Sakonnet Lighthouse rock (41°27'10"N, 71°12'10"W) and extends 1,680 feet south at approximately 180°.

(12) Sites 79A and 79B, located in line, extend west by south from West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 250° for 3,360 feet to approximately 41°26'36"N, 71°12'30"W.

(13) Site 114A begins approximately 3,200 feet south be west of West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 41°29'48"N, 71°7'33"W

and extends at approximately 170° for 1,680 feet.

(14) Site 29 begins approximately 8,400 feet south by west of West Island (41°27'0"N, 71°11'54"W) so-called, at approximately 41°29'8"N, 71°8'17"W and extends at approximately 180° for 1,680 feet.

(15) Sites 614A and 614B, located in line, extend south beginning 2,000 feet east of Dolphin Rock (41°27'13"N, 71°11'7"W), so-called, at a bearing of approximately 180° for 3,360 feet.

(16) Site FC-1, located north of Coddington Cove, begins at approximately 41°32'33"N, 71°18'52"W and extends at approximately 60° towards shore ending at approximately 41°32'40"N, 71°18'42"W.

(17) Site FC-2, located off Coddington Point, begins at approximately 41°32'27"N, 71°19'40"W and extends at approximately 180° towards shore ending at approximately 41°32'21"W, 71°19'39"N.

(18) Site FC-3 begins approximately 1,500 feet west of the state line at approximately 41°26'31"N, 71°12'9"W and extends south from South Shore Beach, Little Compton at approximately 180° for 1,680 feet.

(19) Site FC-4 begins approximately 3,000 feet south of the southwest corner of Tunipus Pond, Little Compton at approximately 41°25'39"N, 71°12'16"W and extends 1,680 feet at approximately 110°.

(20) Site 583-19 located southwest of site 120-19 extends 1,680 feet east at approximately 90°.

(21) Site 585-19 located northwest of Sakonnet Point begins at approximately 41°28'33"N, 71°12'41"W and extends 1,680 feet east at approximately 90°.

(22) Site 586-19

(C) The following sites are located east of the shore in Narragansett north of Scarborough Beach and south of Narragansett Pier within the area designated by the Army Corp of Engineers for fish traps:

(1) Sites 68A and 68B, located in line, begin approximately 1,500 feet north of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 120° for 3,360 feet.

(2) Sites 69A and 69B, located in line, begin approximately at Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 115° for 3,360 feet.

(3) Sites 70A and 70B, located in line, begin approximately 2,000 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by east at approximately 115° for 3,360 feet.

(4) Sites 74A and 74B, located in line, begin approximately 5,100 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and 600 feet from shore and extend southeast by east at approximately 130° for 3,360 feet.

(5) Sites 75A and 75B, located in line, begin approximately 8,300 feet south of Indian Rock (41°24'54"N, 71°27'8"W), so-called, and extend southeast by south at approximately 145° for 3,360 feet.

(D) The following sites are located within the area of the Harbor of Refuge Point Judith:

(1) Site 22-29, located outside of the Harbor of Refuge, begins approximately 1,200 feet northwest from the outer end of the west breakwater at approximately 41°22'5"N, 71°31'5"W and extends at approximately 250° for 550 feet.

(2) Site 400-23, located outside the Harbor of Refuge, begins approximately 500 feet northwest from the outer end of the west breakwater at approximately 41°21'38"N, 71°29'34"W and extends at approximately 250°.

(3) Site 475-29, located within the Harbor of Refuge, begins approximately at approximately 41°21'47"N, 71°29'34"W in front of Breakwater Village, so-called, and extends southwest at approximately 225° for approximately 900 feet.

(4) Site 475-30, located within the Harbor of Refuge, begins approximately 500 feet north from the outer end of the east breakwater at approximately 41°22'5"N, 71°31'6"W and extends northwest at approximately 310° for approximately 650 feet.

Commented [DP(50): Re-located from Fish Trap Regs section 14.7

6.7 Violations for non-compliance: If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to RIGL 20-1-16 as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.

6.8 Penalties:

6.8.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)

6.8.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "*Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".*

6.9 Appeals:

6.9.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "*Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*"

6.9.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.*

Commented [DP(51): General sections added consistent with other regs

EFFECTIVE DATE

The foregoing rules and regulations, after due notice, are hereby adopted in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Notice Given: 02/12/2016
Public Hearing: 03/14/2016
Filing date: XX/XX/2016
Effective date: XX/XX/2016
ERLID # XXXX